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MINISTRY OF LAW

*New Delhi, 20th May, 1950*

**S.R.O. 63.**—The following Order made by the President is published for general information:—

THE PROVISIONAL STATE LEGISLATURES (CASUAL  
VACANCIES) ORDER, 1950.

**C. O. 15.**—In exercise of the powers conferred by clause (2) of article 388 of the Constitution of India and of all other powers enabling him in that behalf, the President is pleased to make the following Order, namely:—

1. (1) This Order may be called the Provisional State Legislatures (Casual Vacancies) Order, 1950.

(2) It shall come into force at once.

2. The General Clauses Act, 1897, shall apply for the interpretation of this Order as it applies for the interpretation of a Central Act.

3. In this Order—

- (a) “casual vacancy” means a casual vacancy in the seat of a member of a House of the Legislature of a State functioning under article 382 or article 385, whether such casual vacancy has arisen before or after the commencement of the Constitution;
- (b) “Election Commission” means the Election Commission constituted under article 324;
- (c) “election law” means a law making any such provisions as are referred to in clause (2) of article 388;
- (d) “incidental matters” means all matters in connection with the filling of casual vacancies, including the decision of doubts and disputes arising out of, or in connection with, such vacancies.

4. As from the commencement of this Order, all election laws shall, in their application to the filling of casual vacancies and incidental matters, be subject to the exceptions and modifications directed by this Order.

5. (1) Notwithstanding anything contained in any election law, the Election Commission shall appoint a person or persons, whether by name or designation, to be an Election Tribunal for the decision of doubts and disputes arising out of, or in connection with, the filling of a casual vacancy.

(2) The power to dismiss an election petition for non-compliance with the provisions of an election law, or to condone delay in filing an election petition, or to allow an election petition to be withdrawn shall, until an Election Tribunal is appointed under sub-paragraph (1), be exercisable by the authority by which such power was exercisable immediately before the commencement of the Constitution:

Provided that no such power shall be exercised except in consultation with and in accordance with the opinion of, the Election Commission.

(3) In all election laws, references, in whatever form of words, to the person or body of persons appointed to inquire into an election petition shall be construed as references to the Election Tribunal appointed under sub-paragraph (1) and references, in whatever form of words, to the President and members of such body of persons shall be construed respectively as references to the President and members of the Election Tribunal appointed under sub-paragraph (1).

(4) Nothing in this paragraph shall apply to the decision of doubts and disputes arising out of, or in connection with, a primary election for the purpose of electing any candidate for a reserved seat or of constituting any electoral college in connection with the filling of a casual vacancy.

6. Except as provided in paragraph 5, and subject to the provisions of article 324, all powers exercisable by any authority under an election law immediately before the commencement of the Constitution shall, after such commencement, be exercisable by that authority.

7. In all election laws, references to British subjects shall be construed as references to citizens of India and Commonwealth citizens, and references to Rulers or subjects of an Acceding State or of an Indian State shall be omitted or construed as references to citizens of India as the context may require.

8. For the purpose of filling a casual vacancy in the seat of a member of the Legislative Assembly of West Bengal elected from a territorial or special constituency, the electoral roll of that constituency as it existed immediately before the commencement of the Constitution shall be published in such manner and at such place in the constituency as the Governor of West Bengal may direct; and, notwithstanding anything in the election law, the electoral roll shall, upon such publication, be final and the validity of any such roll shall not be called in question in or by any court, tribunal or authority.

9. In Part I of the Table in the Fourth Schedule to the Government of India (Provincial Legislative Assemblies) Order, 1936, as subsequently amended, under the sub-heading "(ii) Rural", in the entry in the second column against the constituency Jalpaiguri-cum-Siliguri, after the words "Jalpaiguri district" the words "excluding municipal areas" shall be inserted.

10. The provisions of any election law in force in the State of Madhya Pradesh relating to the decision of doubts and disputes arising out of, or in connection with, elections to the Legislative Assembly of that State (including the provisions with respect to the persons by whom and the grounds on which election petition calling in question any such election may be entertained) shall, subject to such modifications as the Rajpramukh of the State of Madhya Bharat may, with the concurrence of the Election Commission, make, apply in relation to the decision of doubts and disputes arising out of, or in connection with, the elections to fill casual vacancies in the Legislative Assembly of the State of Madhya Bharat.

11. (1) Notwithstanding anything contained in any election law, the General Clauses Act, 1897, shall apply for the interpretation of such law as it applies for the interpretation of a Central Act.

(2) All election laws shall be construed with such modifications as may be necessary for bringing them into accord with the provisions of the Constitution and of this Order.

12. If any difficulty arises in the application of any election law to the filling of casual vacancies or incidental matters, the President may, by order notified in the official Gazette, make such provisions as he considers necessary for the removal of such difficulty.

RAJENDRA PRASAD,  
*President.*

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K. V. K. SUNDARAM,  
*Secretary.*

